IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 20787 of 2004

Between:

T.Anjaiah, s/o late Veeraiah, aged 48 years,

Occ: Driver, E.No.304474, r/o 1-1-119/A/3/3,

Tallagadda, Suryapet, Nalgonda District.

..... PETITIONER

AND

1 The Divisional Manager, APSRTC, Suryapet Division,

Suryapet, Nalgonda District.
2 The Depot Manager, APSRTC, Bus Depot, Suryapet,

Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of writ of mandamus declaring the impugned proceedings No.01/2(9)/96-SRPT dt.28-04-1997 as confirmed by the 1st respondent vide proc.No.PA/19(63)/04-DVM-SRPT dt.17-06-2004 as illegal, unjust, in violation of Art.14, 16 & 21 of the Constitution of India, and in violation of Reg.12(2) of the C.C.&A APSRTC Reg.1967 and consequently direct the respondents to restore the deferred increments along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court made the following:

ORDER:

The petitioner is working as a Driver in the respondent Corporation. He was issued a charge memo alleging rash and negligent driving of a Bus and causing accident to a beggar. He submitted his explanation. The 2nd respondent passed an order on 28.04.1997, without conducting any enquiry, by imposing a penalty of deferment of annual increment for a period of 2 (two) years, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal before the first respondent challenging the order of the 2nd respondent, and it was rejected on 17.06.2004.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be imposed without holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition seeking to declare that the action of the 2nd respondent is illegal and to direct the respondents to add the deferred increments.

3. It is a well settled law that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of 2 (two) years with cumulative effect, imposed by the 2nd respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of
2 (two) years without cumulative effect. The petitioner is not entitled for the difference of the amount if any from the date of punishment till

the date of this order by virtue of this Order, but he is entitled to get the increments calculated on notional basis and he is entitled for the monetary benefit from the date of this Order.

5. The writ petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Divisional Manager, APSRTC,

Suryapet Division, Suryapet, Nalgonda District

2. The Depot Manager, APSRTC,

Bus Depot, Suryapet, Nalgonda District

3. Two CD copies.